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FILED
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SUPREME COURT, U.S.

Docket No. 06-1620

IN THE

Supreme Court of the United States

STEPHEN MARTIN and SUSAN MARTIN,
Petitioners

v.

SANDERSON FARMS, INC., JAMES STUDENSKY, and FARMERS STATE BANK,
Respondents

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

SUPPLEMENT IN SUPPORT OF PETITION FOR A WRIT OF CERTIORARI

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Dated: August 1, 2007

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B. Transcript of July 11, 2007 action affecting orders in perfected Writ – taken by a new bankruptcy judge *without* the Petitioners' consent. 5a

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[1] A new bankruptcy judge "carved out" and acted on part of the 5th Circuit's opinion over Petitioners' "running objection", even though the Writ already questions the constitutionality of law authorizing automatic referral of proceedings to non-Article III judges. This new action further exemplifies the *urgency* that this Court grant review of the Writ in the interest of justice.

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ADDITIONAL CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

28 U.S.C. §157 provides in part:

§157(a) Each district court may provide that any or all cases under title 11 and any or all proceedings arising under title 11 or arising in or related to a case under title 11 shall be referred to the bankruptcy judges for the district.

§157 (c)(1) A bankruptcy judge may hear a proceeding that is not a core proceeding but that is otherwise related to a case under title 11. In such proceeding, the bankruptcy judge shall submit proposed findings of fact and conclusions of law to the district court, and any final order or judgment shall be entered by the district judge after considering the bankruptcy judge's proposed findings and conclusions and after reviewing de novo those matters to which any party has timely and specifically objected.

§157(c)(2) Notwithstanding the provisions of paragraph (1) of this subsection, the district court, with the consent of all the parties to the proceeding, may refer a proceeding related to a case under title 11 to a bankruptcy judge to hear and determine and to enter appropriate orders and judgments, subject to review under section **158** of this title.

§157(d) The district court may withdraw, in whole or in part, any case or proceeding referred under this section, on its own motion or on timely motion of any party, for cause shown. The district court shall, on timely motion of a party, so withdraw a proceeding if the court determines that resolution of the proceeding requires consideration of both title 11 and other laws of the United States regulating

organizations or activities affecting interstate commerce.

§157(e) If the right to a jury trial applies in a proceeding that may be heard under this section by a bankruptcy judge, the bankruptcy judge may conduct the jury trial if specially designated to exercise such jurisdiction by the district court and with the express consent of all the parties.

28 U.S.C. §158(a) provides in part:

The district courts of the United States shall have jurisdiction to ... hear appeals with leave of the court, from interlocutory orders and decrees, of bankruptcy judges entered in cases and proceedings referred to the bankruptcy judges under section **157** of this title. An appeal under this subsection shall be taken only to the district court for the judicial district in which the bankruptcy judge is serving.

28 U.S.C. § 2075 provides in part:

The Supreme Court shall have the power to prescribe by general rules, the forms of process, writs, pleadings, and motions, and the practice and procedure in cases under title 11. Such rules shall not abridge, enlarge, or modify any substantive right.

28 U.S.C. § 2106 provides:

The Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment, decree, or order of a court lawfully brought before it for review, and may remand the cause and direct the entry of such appropriate judgment, decree, or order, or require such further proceedings to be had as may be just under the circumstances.

Supreme Court Rule 5.1 provides in part:

> To qualify for admission to the Bar of this Court, an applicant must have been admitted to practice in the highest court of a State ... for a period of at least three years immediately before the date of application; must not have been the subject of any adverse disciplinary action pronounced or in effect during that 3 year period; and must appear to the Court to be of good moral and professional character.

Supreme Court Rule 9.1 provides in part:

> An attorney seeking to file a document in this Court in a representative capacity must first be admitted to practice before this Court as provided in Rule 5.

Supreme Court Rule 30.4 provides in part:

> An application to extend the time to file any document or paper other than those specified in paragraph 3 of this Rule may be presented in the form of a letter to the Clerk setting out specific reasons why an extension of time is justified. The letter shall be served on all other parties as required by Rule 29. The application may be acted on by the Clerk in the first instance, and any party aggrieved by the Clerk's action may request that the application be submitted to a Justice or to the Court. The Clerk will report action under this paragraph to the Court as instructed.

Fed. R. Bankr. Proc. 8002(b) provides in part:

> If any party makes a timely motion of a type specified immediately below, the time for appeal for all parties runs from the entry of the order disposing of the last such motion outstanding. This provision applies to a timely motion:
> (1) to amend or make additional findings of fact under Rule 7052, whether or not granting the motion would alter the judgment;
> (2) to alter or amend the judgment under Rule 9023;
> (3) for a new trial under Rule 9023; or
> (4) for relief under Rule 9024 if the motion is filed no later than 10 days after the entry of judgment.

The Restatement (2nd) of Contracts, §90(1) provides:

> A promise which the promisor should reasonably expect to induce action or forbearance on the part of the promisee or a third person and which does induce such action or forbearance is binding if injustice can be avoided only by enforcement of the promise.

ARGUMENT

This exceptional and precedent-setting appeal contains argument of great importance to the formation of public policy, and seeks reversal of existing bankruptcy and arbitration law that empowers non-Article III judges with Article III authority. The facts of this case are proof positive that billion dollar poultry corporations and poultry lenders influence non-Article III judges to substitute past consideration for a new performance, and to then apply arbitration law to the new performance as a weapon to enforce unpaid labor.

The issue before this Court questions whether Congress had authority to enact specific statutes[1] to automatically funnel petitions of the bankrupt and poor away from life-tenured judges with salary security. In addition to abridging the 1st Amendment right to petition an Article III court and the 7th

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[1] Article V of the Texas Constitution has also been called into question – in that District and Supreme Court judges lack the life tenure and salary protection required by Art. III of the United States Constitution. Texas is subject to the U.S. Constitution. *See* Tex. Const. Art. I. Sec. 1. It is human nature for Texas judges, like all non-Article III judges, to be easily influenced by partisan recommendations and political powers. *See* the Federalist No. 79, at 472 (Alexander Hamilton): "In the general course of human nature, a power over a man's subsistence amounts to a power over his will."

> "The American colonists suffered greatly under judges controlled by King George III. They listed this grievance in the Declaration of Independence: 'He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.' Declaration of Independence para. 11 (U.S. 1776). The Framers made judicial independence a cornerstone of our judicial system." In re Clay, 35 F.3d 190 (5th Cir. 1984).

Amendment jury right, the statutes automatically refer petitioners to non-Article III judges before the consent clause in statute is even reached. Petitioners are non-attorney U.S. citizens residing in Texas.

Petitioners file this Supplement to update and notify this Court (pursuant to Rule 30.4)[2] that Petitioners were further aggrieved through a filing extension abused by the *pro hac vice* attorney for Sanderson Farms, Inc. (SFI). The due date for the SFI response was July 6, 2007.

1. Rather than file a timely writ response, on Friday, July 6, 2007 SFI served the Petitioners with a two-inch thick book of exhibits including a letter from the *pro hac vice* attorney[3] - stating that the exhibits would be "*proffered at trial by Sanderson Farms*" on July 11, 2007[4] before a new bankruptcy judge (Judge Robert McGuire). SFI seeks a bankruptcy judge order[5] that the 1998 investment

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[2] *See* Rule 30.4.

[3] The attorney who submitted the extension application was admitted to practice *pro hac vice* in the Bankruptcy Court for the Western District of Texas on November 9, 2004 – after returning to Texas from Colorado. *See* Rules 5.1 and 9.1.

[4] The new bankruptcy judge had already received notice that the Writ had been perfected and any bankruptcy actions bearing on the 5th Circuit opinion were stayed pending Supreme Court decision. The SFI revelation that Petitioners were to be defendants in a "trial" before this new bankruptcy judge in less than three business days was a great surprise to the Petitioners. *See* transcript of hearing, pages 9a -10a.

[5] Judge McGuire's action (substituting past consideration for a new performance over the Petitioners' objection) will be moot if this Court decides that 28 U.S.C. §157(a) is unconstitutional in that §157(a) automatically refers Title 11 petitions to bankruptcy judges before the consent clause for referral of individual proceedings in §157(c)(2) is even reached.

Contract (admitted into federal evidence on November 3, 2004)[6] is not a *real* contract, and that there was no contract between the parties other than part of a 1999 labor Agreement – which contains arbitration language and was initially submitted by SFI (on November 17, 2004) to the Chief Bankruptcy Judge, Larry E. Kelly. The findings and conclusions in the November 18, 2004 order (Writ App. C) and all subsequent orders in the Writ are based partly on the evidence of the 1998 investment Contract (which does not have arbitration language and includes SFI's express promise of investment income in return for custom barn construction).[7] *See* Appendix pages 1a - 4a, 16a, 17a, 21a, 22a, 28a, and 30a - 33a, and the Restatement (Second) of Contracts, §90(1). The 1998 investment Contract includes a federally guaranteed construction loan for the express promises of Sanderson Farms, Inc. to pay "37 cents per dozen hatching eggs" and "9

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[6] The SFI attorney was not admitted to practice *pro hac vice* on November 3, 2004 – when the chief bankruptcy judge admitted a copy of the 1998 investment Contract and other evidence submitted by the Martins. A copy of part of a 1999 labor Agreement and its "Payment Schedule" (later submitted by SFI and subsequently admitted by the chief bankruptcy judge) expressly promised additional income in return for a new performance under the 1999 labor Agreement.

[7] SFI disputes facts in the Fifth Circuit's opinion and influenced Judge McGuire to substitute the past consideration (of the 1998 investment Contract) for a new performance (requiring labor as a new performance in the 1999 labor Agreement). The Fifth Circuit's opinion states:

> "This potential cause of action arose from a series of agreements between Sanderson and Farmers State for the Martins to construct egg hatching barns for Sanderson with financing from Farmers State and for Susan Martin to work as a hatching egg producer."

cents per dozen commercial eggs" – for all broiler hatching eggs removed from the barns by SFI. The 1998 investment Contract and express letters offering the consideration are dated in 1998, are on Sanderson Farms, Inc. letterhead, itemize specific annual expenses totaling $26,700, an annual debt repayment of 58,000, a bank loan of $450,000 @ 8.5%-9% with a 15-year term, an annual "net income before tax" of 36,890, and a statement that "the value of litter as fertilizer and cattle feed may add $3,000 to $6,000 to annual returns.[8]

2. SFI influenced Judge McGuire to "carve out" part of the Fifth Circuit's decision and to "vacate[9]

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[8] SFI persistently describes the 1998 Contract (including their signed letters of inducement, itemized description of specific income, expenses, and loan terms, and the Federal Guarantee) as "*a marketing brochure only – it was not a contract.*" *See* transcript page 30a. These same express documents (admitted into evidence on November 3, 2004 along with copies of the federal guarantees) promise "a fair and profitable return on investment." *See* transcript pg 33a. The SFI *pro hac vice* attorney (though not admitted to practice until November 9, 2004) attended the November 3rd hearing and objected to the admittance of this evidence. The attorney seeks to sanction the Petitioners for arguing the admitted 1998 Contract evidence that is objectionable to SFI.

[9] Judge McGuire states his empowerment to "vacate" hinges on a statement in the 5th Circuit's opinion; however, the opinion does not remand the case to a bankruptcy judge, and bankruptcy rules do not preclude substantive rights including the 1st Amendment right to petition this Court. *See* 28 U.S.C. §2075. Also, Bankruptcy Rule 8002(b) does not authorize a bankruptcy judge to "vacate" *any* order; *See* 28 U.S.C. §2106:

> The Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment, decree, or order of a court lawfully brought before it.

and alter" the Chief Bankruptcy judge's relevant May 20, 2005 action titled, "Findings of Fact and Conclusions of Law on Chapter 7 Trustee's Motion to Compromise and Settle Controversy with Sanderson Farms, Inc. Pursuant to Bankruptcy Rule 9019 and Order Granting Said Motion." Before the May 20, 2005 bankruptcy judge action, Petitioners had properly appealed to the Fifth Circuit the April 23, 2005 district court's refusal to remove the automatic referral of the Title 11 petition to the bankruptcy judge. (See Pet. Writ App. F).[10] A decision by this Court favorable to the Petitioners would moot the May 20, 2005 bankruptcy action. In its April 23, 2005 order (denying Petitioners' 28 U.S.C. §157(d) motion and stay motion), the district court stated:

> "Appellants' attempted interlocutory appeal was properly dismissed, this Court properly denied any attempt to stay proceedings in the Bankruptcy Court, and there is no legal basis for

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[10] SFI attached the District Court orders in Writ App. B and F to their #179 amended "vacate and alter" pleading to seek non-Article III review or application of those orders. *See* pages 2a and 24a. The fact (noted in the Writ) that the 5th Circuit failed to review the Dist. Court order in Writ App. F – which denied the Petitioners' motion to remove the automatic referral of the case to the bankruptcy judge – gives an appearance that SFI was allowed to "pre-select" (before the 5th Circuit's opinion was rendered) orders it wanted the 5th Circuit to *not* review or take into consideration. In other words, influence allows billion dollar corporations to choose actions to keep from an Art. III court – then if this Court denies the Writ, the "pre-selected" (non-reviewed) district court orders are taken back to easily influenced non-Art. III judges for additional action.

withdrawing the reference from the Bankruptcy Court."[11]

3. Judge McGuire's new order (see App. A), titled "Order Granting Amended Motion of Sanderson Farms, Inc. And Sanderson Farms, Inc. (Production Division) To Vacate And Alter Compromise Judgment Entered May 20, 2005" states the source of his jurisdiction over the Writ and empowerment to "vacate and alter" the chief bankruptcy judge's May 20, 2005 action is the Fifth Circuit's March 14, 2007 "decision issued as a mandate"; however, the Fifth Circuit also issued a March 14, 2007 order denying the Petitioners motion for rehearing – making a Petition for a Writ of Certiorari the sole remedy available to the Petitioners. Subsequently, the Petitioners properly filed and perfected this Petition for Writ of Certiorari to the Fifth Circuit Court of Appeals. As for *empowerment* of a non-Article III judge to sit as an Article III court and vacate and alter the chief judge's action – where *that* action was made without consent for the

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[11] All Title 11 Petitioners are *automatically* refused access to district judges (pursuant to 28 U.S.C. §157(a) and §1334(b)) – effectively denying the right to give consent *before* referral of individual proceedings in their case. *See* 28 U.S.C. §157(c)(2) and (e)). Then, to "get out" of the bankruptcy court, petitioners (even post-discharge citizens) must file under §157(d) for consent from the district court. In this instant case, Petitioners' 28 U.S.C. §157(d) motion was denied and the 5th Circuit refused to review the appeal of this District Court order. *See* Pet. Writ App. F. An interlocutory appeal is not a viable remedy (*see* §158a) because it presumes that the Petitioner gave consent under §157(c)(2) and (e) before the referral of individual motions to the bankruptcy judge.

referral of the Rule 9019 motion from the District Court – *that is already the issue before this Court.*[12]

4. Judge McGuire's new order vacates and alters the May 20, 2005 action – where that action had itself been improperly granted *after* the Petitioners had already appealed (to the Fifth Circuit) the district court order (March 7, 2005) referring the underlying motion (filed by James Studensky, Respondent) to the bankruptcy judge *without Petitioners' consent.* (See Pet. Writ App. G):

> "It is further ORDERED that the Bankruptcy Court may proceed with a hearing on Trustee's Motion to Compromise Controversy with Sanderson Farms, Inc."[13]

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[12] Also at issue before this Court is arbitration law that by its nature automatically circumvents the Article III requirements of life-tenure and salary protection, and denies the individual citizen's jury right before a controversy is filed. *See* J. Story, Commentaries On The Constitution Of The U. S. 1757 (1833):

> "[I]t is a most important and valuable amendment, and places upon the high ground of constitutional right the inestimable privilege of a trial by jury in civil cases, ... which is conceded by all to be essential to political and civil liberty." *Id.* at 1762. All courts shall be open, and every person for an injury done him, in his lands, goods, person or reputation, shall have remedy by due course of law. Tex. Const. Art. I Sec. 13. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved. U.S. Const. 7th Amend.

[13] In other words, district judges are empowered under 28 U.S.C. §157(a) and 28 U.S.C. § 1334(b) to automatically refer motions invoking Title 11 to a bankruptcy judge before the consent requirements under §157 are even reached.

5. SFI and the Bank were both listed on the Petitioners' "creditor matrix", and were non-claimants of the Petitioners' bankruptcy estate. Debt related to the 1998 investment Contract (including the SFI pre-construction promise of investment income in return for custom barn construction) was also scheduled, and was never delinquent. The private potential causes of action were noticed on the bankruptcy petition, and the Trustee never "ripened" them. There was no underlying adversarial proceeding on file during bankruptcy. The Petitioners did all that was required by statute and were granted a discharge order in 2003.

Why do non-Article III judges "order and decree" the substitution of past consideration for a new performance and apply arbitration law to that new labor performance? Why were Rule 9019 motions referred to the bankruptcy judge without the Martins' consent, and why was mail delivery of the Martins' post-discharge investment income diverted in 2004 to the bankruptcy court without the Martins' consent?

The sole answer is simple. Judges who lack the life-tenure and salary protection requirements of Article III are easily influenced. The facts of this case are proof positive that the billion dollar corporations know they can buy legislation and influence judicial decisions. Petitioners under Title 11 and discharged citizens are denied access to Article III judges for vindication of wrongs committed against them privately. Access (of the poor and bankrupt) to Article III judges is blocked by statute and State Constitution – allowing powerful influences to continue unfettered to ravage the bankrupt and poor. Where is the justice in that?

CONCLUSION

For the foregoing reasons and argument, and for the reasons and argument set forth in the Petition For Writ of Certiorari To The Fifth Circuit, this Court should grant certiorari.

Respectfully submitted,

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Dated: August 1, 2007

APPENDIX A – ORDER OF THE UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT OF TEXAS, WACO DIVISION GRANTING AMENDED MOTION OF SANDERSON FARMS, INC. AND SANDERSON FARMS, INC. (PRODUCTION DIVISION), TO VACATE AND ALTER: "FINDINGS OF FACT AND CONCLUSIONS OF LAW ON CHAPTER 7 TRUSTEE'S MOTION TO COMPROMISE AND SETTLE CONTROVERSY WITH SANDERSON FARMS, INC. PURSUANT TO BANKRUPTCY RULE 9019 AND ORDER GRANTING SAID MOTION" ENTERED MAY 20, 2005

DATED AND FILED JULY 12, 2007

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

Case No. 03-61633
Chapter 7 Petition
In Re: Stephen Clyde Martin and
Susan Gayle Martin, Debtors

ORDER GRANTING AMENDED MOTION OF SANDERSON FARMS, INC. AND SANDERSON FARMS, INC. (PRODUCTION DIVISION) TO VACATE AND ALTER COMPROMISE JUDGMENT ENTERED MAY 20, 2005

Before the Court is the Amended Motion of Sanderson Farms, Inc. and Sanderson Farms, Inc. (Production Division) to Vacate and Alter

Appendix A

Compromise Judgment Entered May 20, 2005, said amended motion having been filed December 23, 2005 (Doc. #177). Debtors filed a Memorandum against this motion on January 3, 2006 (Doc. #178). Sanderson Farms, Inc. and Sanderson Farms, Inc. (Production Division) filed a Response to the Debtors' Memorandum on January 10, 2006 (Doc.#179), to which the Debtors filed an Amended Second Memorandum in opposition on January 11, 2006 (Doc. #181).

The Court held a hearing on July 11, 2007. This Court has jurisdiction to consider this pending motion to amend.[1] At the hearing, the Debtor Susan Martin and the Sanderson Farms entities appeared. Debtor Susan Martin testified as did Terry Thompson for the Sanderson Farms entities.

The Sanderson Farms entities ask the Court to correct certain information stated in a prior order filed May 20, 2005 (Doc. #158) and titled Findings of Fact and Conclusions of Law on Chapter 7 Trustee's Motion to Compromise and Settle Controversy with Sanderson Farms, Inc. Pursuant to Bankruptcy Rule 9019 and Order Granting Said Motion. The Sanderson Farms entities ask that the names of the contracting

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[1] The Fifth Circuit Court of Appeals, in its decision issued as mandate on March 14, 2007, specifically stated that, because Sanderson farms had filed a timely motion to amend the May 20, 2005 order, which motion was still pending, the Fifth Circuit did not have jurisdiction to consider an appeal of said order pursuant to Fed. R. Bankr. Proc. 8002(b). It dismissed the Martin's appeal of the May 20th order for lack of jurisdiction.

parties to the Hatching Egg Producer's Agreement be corrected to be Sanderson Farms, Inc. (Production Division), and not Sanderson Farms, Inc., and be corrected to be Susan G. Martin, not both the Stephen and Susan Martin. Also, the Sanderson Farms entities seek the corrected date of February19, 1999 for the Hatching Egg Producer's Agreement and not February 1998.

At the hearing, the Sanderson Farms entities' Exhibit 13 was admitted into evidence. Exhibit 13 is the Hatching Egg Producer's Agreement and clearly reflects that the parties to this contract are Sanderson Farms, Inc. (Production Division) and Susan G. Martin DBA Windy Acres Farm and that the date of the contract is February 19, 1999. Testimony of Terry Thompson showed that there was no other contract between the parties. Debtor Susan Martin did not present credible rebuttal testimony.

As such, the motion to vacate and alter the order approving the compromise and settlement with the Trustee and the Sanderson Farms entities (Doc. #177) has merit and should be granted. Based upon the findings of fact and conclusions of law stated above and on the record, it is therefore

ORDERED that the motion to vacate and alter compromise judgment is granted; thus, in the May 20, 2005 order (Doc. #158), all references to Sanderson Farms, Inc. are hereby altered to be Sanderson Farms, Inc. (Production Division). Further, in Doc. #158, the contracting parties to the Hatching Egg Producer's

Appendix A

Agreement are corrected to be Sanderson Farms, Inc. (Production Division) and Susan G. Martin. Also, in Doc. #158, the date of the Hatching Egg Producer's Agreement is corrected to be February 19, 1999.

IT IS HEREBY ADJUDGED and DECREED that the [foregoing] is SO ORDERED.

Dated: July 12, 2007

s/ Robert C. McGuire
ROBERT C. McGUIRE
United States Bankruptcy Judge

APPENDIX B

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

IN RE:	*	Case No. 03-61633
STEPHEN CLYDE MARTIN and SUSAN GAYLE MARTIN,	*	
Debtors.	*	July 11, 2007

BEFORE THE HONORABLE ROBERT C. McGUIRE BANKRUPTCY JUDGE

#81 – Motion for Rule 9011 Sanctions Against Debtors (20 Day Objection Language) Filed by Susan Hardie Jacks for Creditor Sanderson Farms, Inc. (Attachments: #(1) Exhibit A #(2) Exhibit B #(3) Exhibit C #(4) Exhibits D, E, F #(5) Exhibits G, H, I, J)

#177 – Amended Motion to Vacate Order Filed by Susan Hardie Jacks for Creditor Sanderson Farms, Inc. (Attachments: #(1) Exhibit A #(2) Exhibit A-1 #(3) Exhibit B #(4) Exhibits B-1 #(5) Proposed Order Granting Amended Motion to Vacate and Alter Judgment Entered May 20, 2005 Filed by Sanderson Farms, Inc. and Sanderson Farms, Inc. (Production Division)

Proceedings recorded by electronic sound recording, transcript produced by transcription service.

[2] APPEARANCES

APPEARING PRO SE
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Appearing for Creditor Sanderson Farms, Inc.

* * *

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* * *

[4] THE COURT: Okay. Back to the Martin matter.

MS. MARTIN: Your Honor, if it please the Court, I'm Susan Martin, the Debtor. And I sent a written request to the Court for an official transcriber, to be

present so that I can get a copy of the record. And is that – Is there a transcriber present?

THE COURT: Yes.

MS. MARTIN: Okay. Thank you, sir.

And also, as you know, regarding this matter, there is a perfected appeal right now on this matter before the U.S. Supreme Court. And –

THE COURT: Let me – Let me interrupt for a moment.

MS. MARTIN: Sure.

THE COURT: It appears to me that the only matter that should be heard on this, this morning, is the motion for correction of the prior order, not on the – not the Rule 11 motion, because it looks to me like, since the appeal has been perfected, that that would be – should be taken up –

MS. MARTIN: Into consideration?

THE COURT: After the – After that's ruled on. But I do – It does appear to me that the motion [5] for correction would be appropriate for the Court to take up today, so I'm going to take that up.

MS. MARTIN: Okay, your Honor. And, so, I would like to present to the Court a running objection to the proceedings, –

THE COURT: It will be so noted.

MS. MARTIN: – just for the record.

THE COURT: So noted.

MS. MARTIN: Okay. Thank you, sir.

THE COURT: You may proceed.

MS. JACKS: Thank you, your Honor. Good morning. I'm Susan Jacks, here on behalf of Sanderson Farms, Inc., and Sanderson Farms, Inc., Production Division. Those are two separate companies.

Your Honor, we are here before the Court today to ask the Court to correct some items listed in the May 20, 2005, order that the Court entered approving a compromise between the trustee and Sanderson Farms. In that May 20, 2005, memorandum and order, there were three points that we would ask the Court to correct. They involve the parties who were – who were contracting parties concerning a hatching egg production business, and also the date of that contract.

Your Honor asked, when this hearing was set, that [6] we produce evidence, and we have a witness here from Sanderson Farms today to provide that testimony, if the Court would like, or I can make a proffer, whatever the Court's pleasure is.

THE COURT: It would be probably better to have the witness testify.

MS. JACKS: Very well, your Honor.

THE COURT: If the witness would stand, and please raise your right hand.

Do you swear the testimony you're about to give in the matter before the Court will be the truth, the whole truth, and nothing but the truth?

THE WITNESS: I do.

MS. JACKS: And, your Honor, I've brought with me exhibit booklets and a witness list. If I may hand those up?

THE COURT: You may.

MS. JACKS: Thank you.

THE COURT: You may proceed. The witness should be seated over there.

MS. JACKS: Has he been sworn?

THE COURT: You weren't sworn yet, were you?

THE WITNESS: I was standing up there, raising my hand.

THE COURT: Okay. That's fine, then.

[7]You're sworn.

MS. JACKS: And, your Honor, may I help hand the witness one of those exhibit books?

MS. MARTIN: Your Honor, if it please the Court, I object – I was totally surprised, and –

MS. JACKS: Speak into the mic, please.

MS. MARTIN: I was –

COURTROOM DEPUTY: We need you speak into the mic, please.

MS. MARTIN: Okay. I was totally shocked, your Honor, whenever I received this.

THE COURT: If you would get to the mic, ma'am, please. Thank you. Okay.

MS. MARTIN: I was completely shocked whenever I received this Friday of last week, because who is on trial here? This indicates – And this is a letter from Ms. Jacks saying, "Enclosed is a copy of the exhibits to be proffered at trial by Sanderson Farms." We have –

THE COURT: Trial on – This is trial on the correction matter.

MS. MARTIN: Okay. We have never consented to be on trial for anything. And I wanted to make that point. We were totally shocked whenever we received this, because we were not prepared to come [8] here as defendants, your Honor.

THE COURT: To the extent that's an objection, it's overruled.

You may proceed.

MS. JACKS: Thank you, your Honor.

DIRECT EXAMINATION

BY MS. JACKS:

Q. Mr. Thompson, will you please state your full name for the record?

A. Terry Lee Thompson.

Q. And who is your employer, sir?

A. Sanderson Farms, Inc.

Q. And how long have you worked in the Sanderson Farm companies?

A. Approximately 11 years, total.

Q. All right. Have you always worked for Sanderson Farms, Inc.?

A. No. I've worked for Sanderson Farms, Inc., Production Division, and Sanderson Farms, Inc., currently.

Q. All right. And please explain – And, sir, if you'll speak into the microphone just a little bit more.

A. I'm sorry.

Q. Thank you.

[9] Please explain the difference between Sanderson Farms, Inc., and Sanderson Farms Production Division.

A. Sanderson Farms, Inc., Production is a wholly owned subsidiary of Sanderson Farms, Inc., along with Sanderson Farms Production, Sanderson Farms Processing and Sanderson Farms Foods are three separate companies.

Q. So, Sanderson Farms Production Division is a wholly owned subsidiary of the parent company, Sanderson Farms, Inc.; is that correct?

A. That's correct.

Q. And for a while your employer was Sanderson Farms, Inc., Production Division, the subsidiary?

A. Yes.

Q. Okay. And during the time that you worked for Sanderson Farms Production Division, what were your job responsibilities?

A. I started out as a breeder supervisor, then a hatchery supervisor, then live hall manager, then production

manager, and then division manager at our Bryan location.

Q. Let me back up and ask if you'll explain for the record: Generally, what is the business of Sanderson Farms?

A. We – We raise birds from hatching eggs, we hatch [10] them, then we take them to farms that are raised – at contract producers that raise the birds, and then we slaughter the birds for processing and for sale.

Q. All right. And the divisions that you described earlier are three separate companies that are involved in those different processes; is that correct?

A. Correct.

Q. All right. You stated that you worked in the Bryan division of Sanderson Farms Production Division?

A. Yes.

Q. And was that from the beginning of your employment in 1996?

A. Yes.

Q. All right. And when did you leave Texas to go to work for Sanderson Farms, Inc.?

A. Approximately two years ago.

Q. Okay. Does Sanderson Farms Production Division engage independent contractors to assist it in its business operations?

A. I'm sorry. Can you say that one more time?

Q. Yes. Your employer, your previous employer, Sanderson Farms Production Division, –

A. Yes.

Q. – does it engage independent contractors –

A. Yes.

[11] Q. – to assist it in its business operations?

A. Yes, ma'am.

Q. And what do those independent contractors do?

A. We have independent contractors that raise pullets; then we have independent contractors that raise hatching egg producing hens; and then we have hatch – contract broiler production.

Q. Okay. And before we talk more about that, let me just ask you, what is your educational background, sir?

A. I have a Bachelor of Science degree in animal science.

Q. And from what institution did you receive that degree in animal science?

A. Stephen F. Austin, in Nacogdoches, Texas.

Q. And what year did you graduate from college?

A. 1992.

Q. During the time that you worked in the Bryan area as an employee of Sanderson Farms Production Division, did you come to meet Mrs. Susan Martin?

A. Yes.

Q. And was Mrs. Martin a hatching egg producer for Sanderson Farms Production Division?

A. Yes.

Q. Did Mrs. Martin enter into a written contract [12] with Sanderson Farms Production Division?

A. Yes.

Q. I direct your attention, sir, to the exhibit booklet in front of you, and ask you to turn to Tab 13.

MS. MARTIN: Your Honor, I specifically object to this. And I have a document here with me that shows that this is not the document that I signed.

MS. JACKS: May I proceed, your Honor?

THE COURT: You may proceed.

MS. JACKS: Thank you.

Q. (By Ms. Jacks) Mr. Thompson, have you had a chance to take a look at the document marked as P-13?

A. Yes.

Q. Is this the hatching egg producer's agreement between Sanderson Farms Production Division and Ms. Susan G. Martin?

A. Yes.

Q. Have you reviewed the original contract that is the hatching egg producer's agreement between Sanderson Farms, Inc., Production Division and Susan G. Martin?

A. Yes, ma'am.

Q. And when did you do that?

[13] A. Yesterday.

Q. And where is that document located?

A. At our Bryan, Texas, facility, production facility.

Q. So, in your – in the offices of Sanderson Farms Production Division in Bryan, Texas?

A. Yes, ma'am.

Q. And have you compared the original against the copy that you have before you?

A. Yes, ma'am.

Q. And is it your testimony that this copy is a true and accurate copy of the original document that you have in the files of Sanderson Farms Production Division?

A. Yes, ma'am.

Q. Is it the custom of Sanderson Farms Production Division to maintain the original contracts in its offices?

A. Yes, ma'am.

Q. I'll ask you to take a look at the last page of Exhibit P-13. Do you see the signature block, sir?

A. Yes, ma'am.

Q. And the signature of Larry Ryals, whose title is breeder/hatchery manager, do you recognize that signature as Mr. Ryals's signature?

[14] A. Yes, ma'am.

Q. And he's signing on behalf of Sanderson Farms, Inc., Production Division; correct?

A. Yes, ma'am.

Q. And who is the grower under this contract?

A. Ms. Susan Martin.

Q. And if you'll turn back to Page 1 of Exhibit P-13: at the top of the page, it states, "This agreement made and entered into as of the 19 day of February 1999, between Sanderson Farms, Inc., Production Division and Susan G. Martin, hereinafter called 'the grower.'"

Is that your understanding of who the parties are to this contract, Sanderson Farms, Inc., Production Division and Mrs. Martin?

A. Yes.

Q. Thank you.

MS. JACKS: Your Honor, we offer Exhibit P-13.

THE COURT: P-13 will be admitted.

MS. JACKS: Thank you, sir.

Q. (By Ms. Jacks) Mr. Thompson, are there any other hatching egg producer contracts between Sanderson Farms, Inc., and Mrs. Martin?

A. No, ma'am.

Q. Are there any other hatching egg producer contracts between Sanderson Farms, Inc., or Sanderson Farms Production Division and Mr. Martin?

A. No, ma'am.

MS. JACKS: We pass the witness, your Honor.

THE COURT: Any questions of this witness?

MS. MARTIN: Yes, your Honor. Thank you, your Honor.

CROSS-EXAMINATION

BY MS. MARTIN:

Q. If I may call you Randy?

A. I'm Terry.

Q. Terry? Okay.

You said that – or you – you testified under oath that this hatching egg producer's agreement that is in Exhibit 13 says that this is a contract between Susan G. Martin and Sanderson Farms, Inc., Production Division; is that correct?

A. Yes, ma'am.

Q. However, the exhibit behind Tab 13 actually says, "This is an agreement between Sanderson Farms, Inc., Production Division, hereinafter called 'Sanderson,' and Susan G. Martin, herein . . . " Right below that, does it have typed in on it "d/b/a Windy Acres Farm, hereinafter called 'the grower' "? Isn't that the [16] truth?

A. Yes, ma'am, that's what it says.

Q. That's what mine says, too.

MS. MARTIN: Now, your Honor, I would like to present to you that this is not what we signed.

THE COURT: Do you have any further questions, ma'am? Ma'am, do you have any further questions of this witness?

MS. MARTIN: Yes, your Honor.

THE COURT: Well, finish your questions.

MS. MARTIN: Okay. Thank you, sir.

Okay. Your Honor, I would like to put before the witness a document filed in this bankruptcy court on November 29th, –

THE COURT: Okay. Show it to counsel.

MS. MARTIN: – 2004.

THE COURT: Show it to counsel first.

MS. JACKS: Your Honor, Mrs. Martin did not produce – or did not present any exhibits in accordance with the local rules; she didn't provide them to me in advance of this hearing. So, I object to the presentation of anything that may be considered or offered as an exhibit. Some of these matters are pleadings, but to the extent that she offers them as exhibits or wants to show them to the witness, she's [17] not complied with the local rules.

MS. MARTIN: Your Honor, what I have to say is that I did not receive Mrs. Jacks' book of exhibits indicating that I was going to be on trial here today until Friday. And this is a filing that was entered into this Court on November 29th, 2004.

THE COURT: All right. Let me see what you – Let me – Hand it up here for a minute; let me take a quick look at it.

(Pause.)

THE COURT: Okay. Now, this is styled as Debtors' Response to Sanderson Farms' Motion for Sanctions; is that what it is?

MS. MARTIN: Yes, your Honor.

THE COURT: Okay. I'll – Apparently, it's part of the record already, since it's been filed, so I don't – I'll overrule the objection.

MS. MARTIN: Thank you, your Honor.

THE COURT: Let's move along. This should be a short matter this morning.

MS. MARTIN: Okay. I'm sorry.

Okay. If I may approach the witness, your Honor?

THE COURT: You may. You may – Everybody can approach the witnesses without asking.

MS. MARTIN: Thank you, sir.

[18] Q. (By Ms. Martin) If I may, may I get you to read this part of this exhibit?

A. Debtors' Exhibit P-85? It says, "Excerpts of the statement made by the SFI Bryan division manager Randy Perez under oath at hearing on August 8th, 2002, in the State District Court of Milam County, Texas, recorded beginning at Line 23 of the certified transcript."

Continue reading?

Q. Yes. Please.

MS. JACKS: Your Honor, I object to the attempt to solicit testimony from another proceeding through this witness. He has no knowledge, whatsoever.

THE COURT: Sustained. Objection sustained.

MS. MARTIN: Okay. Okay. Thank you, your Honor.

Since – Since I filed it, can I read it?

THE COURT: Not at this time. We're not into argument yet.

MS. MARTIN: Okay. Okay. Thank you, your Honor.

Then I have no further questions. Thank you.

THE COURT: Any redirect?

MS. JACKS: No, your Honor.

[19] THE COURT: The witness may step down.

Any further testimony at this point?

MS. JACKS: Not from the Movant, your Honor.

THE COURT: All right. From the Respondent?

MS. MARTIN: May I testify?

THE COURT: You may. If you want to take the stand. Have you been sworn yet, or not?

MS. MARTIN: Yes, sir.

THE COURT: All right.

MS. MARTIN: I have.

THE COURT: If you'll take the stand

MS. MARTIN: Thank you, your Honor.

DIRECT EXAMINATION (NARRATIVE)

MS. MARTIN: If I may, I would like to read this portion of the transcript that took place at the Milam – the state hearing on this matter, in which Sanderson Farms testifies, under oath, that – And if I might read it? It was attached to this exhibit, which was filed, and has been available to Sanderson Farms and Sanderson Farms' attorney since November 29th, 2004.

MS. JACKS: Your Honor, I object to this attempt. Again, this is the Debtors' attempt to produce evidence in the form of a transcript. None of this has been presented in advance. I don't even know [20] what this transcript is. I – There's no authenticated copy of the transcript. For all I know, this is a mischaracterization. It – There's no authenticity here. So, –

THE COURT: Okay. Sustained, at this point.

MS. MARTIN: Okay. Your Honor, I'm having difficulty with my papers.

And the point – Okay. The point that I want to make is that this Exhibit Number 13 has been presented to this Court by Sanderson Farms, saying and alleging that this is an agreement between only me and Sanderson Farms. And when, in fact, –

THE COURT: You understand, ma'am, when you sign something as a d/b/a, it's the same as if you sign it individually? Do you understand that?

MS. MARTIN: But what I'm saying, sir, is that I did not sign this as a d/b/a. I did not sign – Whenever I signed this document, it was not filled in "d/b/a Windy Acres Farm." This was typed in after the fact, on admission of

Sanderson Farms, that they typed it in after the fact, you know, at a later time, after it had already been fully executed. And, for that reason, the state court did not accept this into admission. And Sanderson Farms apparently – This gives – This brings my husband into this labor [21] agreement, and my husband was not part of this labor agreement.

And, you know, for that reason, I file an objection. This is not what I signed. And the state court agreed with me. This is not what – what I was told and directed by the state court to even file on application to the American Arbitration Association. This is not what I filed, and I want to stress that point.

At this time, or during argument, would that be the appropriate time for me to present the other documents?

THE COURT: You're going to have to decide how to do your own case. But it's – Normally, if you're trying to get into evidence documents, you have to get them through testimony rather than through argument.

But this is a hearing that shouldn't take over 15 minutes, and it's already taken over that. So . . .

MS. MARTIN: Yes. Well, other than to say that this is not what we – The basis of their argument is that this is what I signed, and this is not what I signed, your Honor. And in the order that I received from you, if I may step down to my chair, and –

[22] THE COURT: You may.

MS. MARTIN: – get that order?

Okay. The initial order, your Honor, states that I'm to bring documents, and that we will –

THE COURT: What initial order are you talking about?

MS. MARTIN: It's an order dated April 18th, 2007.

And in the order you said that this hearing is based on the live proceedings, or the live motions, the live filings, and referred specifically to – Let me see here. Referred specifically to Documents Number 177, 178, 179 and Document Number 181, filed in this Court. And so –

And then Sanderson Farms' attorney, Ms. Jacks, called me. And whereas this order, dated April the 18th, tells me to be sure and bring documents, Sanderson Farms called me and said that, you know, in so many words, that if I come and bring documents, that the sanction motion will be considered. And –

THE COURT: As I told you, the sanctions motion isn't being taken up today.

MS. MARTIN: Okay. Thank you, sir.

Okay. And, so, I came with that in mind. But, at the same time, I received this – these exhibits [23] that's titled primarily that I am going to be sanctioned because I'm on trial here.

And so anyway – And Documents 177, which is titled Amended Motion of Sanderson Farms, Inc., and Sanderson Farms, Inc., Production Division to vacate and alter compromise judgment entered May the 20th, 2005. In that, they have attached an Exhibit A, which, up at the top

of it, it says, "This agreement, made and entered into as of the 19th day of February 1999," or 1990 blank, okay, "by and between Sanderson Farms, Inc., Production Division, hereinafter called 'Sanderson' and Susan G. Martin, hereinafter called 'the grower,' d/b/a Windy Acres Farm."

And they have this typed in as an exhibit so that it does not show the difference in type whenever they typed in "d/b/a Windy Acres Farm" on the actual document that they presented. Then they have attached to that a copy of that document, itself, which does show the difference in type; "d/b/a Windy Acres Farm" is in different type print.

Okay. Also attached to that, they have a civil docket, or a docket, a copy of a docket from the district court that was quite lengthy. And that Number 78, then, we filed appellants' memorandum regarding USBC Number 177, a post-judgment motion by [24] Sanderson Farms, Inc., moving the bankruptcy court to vacate and then alter the findings, that 5/20/05 order that regranted the trustee's post-judgment Rule 9019 motion, USBC Number 110. Okay? And we filed a memorandum saying that –

THE COURT: I think you're getting into argument. I'm not sure where you're going with this.

MS. MARTIN: Okay.

THE COURT: Finish your – Finish your testimony.

MS. MARTIN: Okay. Then Sanderson Farms filed a response to – in Number 179. Attached to that is Exhibit A, order of the United States District Court, which is down at – filed April 25th, 2005. This order, sir, of the district court, is in the petition for a writ of certiorari

which has been adopted at the U.S. Supreme Court, and the writ is Appendix F. Okay?

Then Sanderson Farms has Exhibit B attached to this live pleading, the same live pleading, filed April 25th, 2005. It's a – It's a memorandum, opinion and order of the district court. This Exhibit B, sir, in the live pleading that is supposed to be discussed today, is in the writ as Appendix B.

Okay. And then in – I filed a response, [25] appellant's second memorandum to the bankruptcy court, which is the live pleading that's supposed to be being discussed today, filed as a Number 181 in this Court. We go through various memorandums, or various citations, your Honor, all the way from the U.S. Supreme Court to other districts, saying that the jurisdiction of the bankruptcy court, it is both mandatory and jurisdictional, according to the U.S. Supreme Court. And whenever we file an appeal from the bankruptcy court to the district court, it says that the –

THE COURT: Ma'am, the Fifth Circuit has already ruled that this matter wasn't a proper thing for appeal. So . . .

MS. MARTIN: Yes. And so –

THE COURT: All right. I'm going to cut you off at this point. You've – Your testimony is finished, since you've not – you don't care to offer testimony. All you're doing is reciting from pleadings. So . . .

You may step down.

MS. MARTIN: Okay. Thank you, your Honor.

MS. JACKS: Your Honor, may I ask Mrs. Martin a couple of questions?

THE COURT: Yes.

[26] MS. JACKS: Thank you.

CROSS-EXAMINATION

BY MS. JACKS:

Q. Mrs. Martin, will you please refer to Exhibit P-13 in the exhibit book before you? And I'll direct your attention to the last page of that exhibit. It's the page numbered 8 at the bottom of the page.

Are you there, ma'am?

A. Yes.

Q. Is that your signature on Page 8?

A. Yes, it is.

Q. All right. And I would also ask you to turn to Tab 11 in the exhibit book.

A. Okay.

Q. Do you recognize the first page of Exhibit 11 as the voluntary petition that you filed when you commenced this bankruptcy case?

A. I believe it is.

Q. All right. And I would then ask you to turn to the very back of the exhibit, four pages from the back.

A. I think I'm there.

Q. And do you recognize this as the statement of financial affairs that you filed when you commenced this bankruptcy case, or as a – as part of it?

[27] A. What does it say up at the top of the page?

Q. Let me help you by directing your attention to the page that has Number 17 at the top.

A. Okay.

Q. If you'll look at the paragraph numbered 18, requesting information about the Debtors' businesses. Do you see where you have listed a beginning date of a contract with Susan Martin, Windy Acres Farm, and the nature of the business as egg production?

A. Of the labor agreement. Yes.

Q. Well, and do you see where you've got beginning and ending dates, February 15, 1999?

A. Right. Which –

Q. Is that – Is that the correct –

A. That's what this says.

Q. And you signed this document on the next page, did you not?

A. Yes.

Q. And you declared under penalty of perjury that this was –

A. Uh-huh. Yes.

Q. – that this information that you provided to the Court was accurate?

A. Right.

Q. All right.

[28] MS. JACKS: No further questions, your Honor.

MS. MARTIN: Okay. Your Honor, may I say one thing regarding this?

THE COURT: Yes. One thing.

MS. MARTIN: Thank you.

REDIRECT EXAMINATION (NARRATIVE)

MS. MARTIN: This was referring to the labor agreement that was between only me and Sanderson Farms. This is the labor agreement. This was not the 1998 investment contract.

THE COURT: Okay. Anything further?

MS. MARTIN: I guess not, your Honor.

THE COURT: You may step – You may step down.

MS. MARTIN: Thank you, sir.

THE COURT: Okay. All sides rest and close on evidence?

MS. JACKS: Yes, your Honor.

THE COURT: All right.

MS. MARTIN: Yes, your Honor.

THE COURT: Okay. Any short argument desired?

MS. JACKS: If – If I may, your Honor. Thank you.

[29] Very briefly, your Honor, we are here just to ask for a correction of the Court's May 20, 2005, findings of fact and conclusions of law by which the Court approved the compromise between the Chapter 7 trustee and Sanderson Farms, Inc. The compromise called for a settlement between any causes of action that the – or on any causes of action that the estate might have had against Sanderson Farms, Inc., and all of its affiliates, including Production Division.

The Court's findings of fact and conclusions of law contained some background factual statements, and a couple of other statements throughout the – throughout the findings and conclusions that we ask be corrected. And those are that the contract was a February 19, 1999, contract, not a February 1998 contract; that the contract was between Mrs. Martin only, not Mr. and Mrs. Martin; and that the other contracting party was Sanderson Farms, Inc., Production Division, and not Sanderson Farms, Inc., the parent company. Plaintiff – Or, excuse me. The Movant's Exhibit P-13 amply supports that, your Honor.

THE COURT: Is there any significance in your mind between the date of the statement of financial affairs, showing the contract beginning on the 15th, and the 13 – the Exhibit 13 showing it's [30] the 19th?

MS. JACKS: I don't think so, your Honor. That may have been a typographical error or the – just by a few days. The significance – And I know the Court is new to

this proceeding, but Mrs. Martin alluded to this somewhat. She has previously argued that a document that was handed to her, which we have explained was a marketing brochure only – it was not a contract – she has – she has argued that that document is a contract, and that is a 1998 contract – she called it a labor agreement – between her and Sanderson Farms, Inc. There's no evidence in the record of such a contract. And the significance is the distinction between a 1998 document and a 1999 document.

THE COURT: Okay.

MS. JACKS: Thank you, sir.

THE COURT: Ms. Martin? You're going to be limited to five minutes. So . . .

MS. MARTIN: Your Honor, as you – since you, apparently, took a look at the Fifth Circuit Court's decision, you should have been able to read, I'm sure you noticed, that even the Fifth Circuit referred to a series of agreements, a series of contracts, between us and Farmers State Bank and Sanderson Farms, Inc. Now, in 1998, whenever we [31] engaged in the contract which we have been referred tc (sic) – referring to as the 1998 preconstruction investment contract, that involved Sanderson Farms, Farmers State Bank and me and my husband; that involved all four parties. Even the Fifth Circuit's opinion acknowledges that there are multiple contracts.

Now, after the fact, after – And this was a contract. At that time, the 1999 labor agreement did not even exist, and we were not even qualified or considered for a loan based on a 1999 labor agreement They are obviously different. In – On November the 3rd, 2004, I submitted –

me and my husband submitted exhibits to the bankruptcy court which were admitted. And in that, yes, it does have a copy of what we are referring to as the 1998 pre-construction investment contract. And it does involve commitments, signed letters, and such, from Sanderson Farms, that they will provide an income. Up at the top – Well, along with their signature. And let me turn to that in the exhibit book that was admitted into the Court, and which Sanderson Farms has made copies out of it.

MS. JACKS: Your Honor, I object. And the reason is that the exhibit book to which Mrs. Martin refers was never admitted as against Sanderson Farms.

[32] There were several hearings conducted at that time. And I specifically asked Judge Kelly to clarify for the record that the exhibits that were admitted by Mrs. Martin pertained to –

THE COURT: You mean offered by her?

MS. JACKS: Yes. Yes. They were offered, excuse me. They were offered by her, and admitted by the bankruptcy court, concerning her objection to the compromise with Farmers State Bank. They had nothing to do with the hearing relating to Sanderson Farms. And the Court's findings from that hearing reflect that. So, Mrs. Martin is attempting to produce today exhibits from another hearing that Sanderson Farms was not a party to.

MS. MARTIN: And, your Honor, Sanderson Farms –

THE COURT: Overruled, at this point.

MS. MARTIN: Yes.

THE COURT: You have two minutes left.

MS. MARTIN: Okay. Sir, this is a valid contract. Even though it doesn't include anything we signed, it says I – on Page – Or, this is a Plaintiff exhibit, or Exhibit 2. "Dear Mr. and Mrs. Martin, please consider this as notification of commitment from Sanderson Farms. Our plans call for [33] your farm to place hens during the month of September 1998. Due to the amount of time you will have for the construction period, your site preparation, road construction will need to be complete as soon as possible." It's signed, "Sincerely, Kevin Crook, division manager; Larry Ryals, breeder/hatchery manager."

On the next page, there is another letter – a signed letter of commitment. And these were all used, sir, in the appraisal that was done for the bank, to finance the construction. "Please consider this as notification of a commitment. Our plans call for your farm to place hens during the month of February 1999. Complete the construction as soon as possible." Signed, Kevin Crook, division manager, and Larry Ryals, breeder/hatchery manager.

Then the next page. It says –

MS. JACKS: Your Honor, I object.

Excuse me.

These are not properly authenticated documents. The witness – She's trying – Mrs. Martin is trying to testify, as a witness, about documents that have not been introduced into evidence.

THE COURT: Well, we're in the argument stage now. So, I agree with you, but she's only got a [34] half minute left, so I'm going to . . .

MS. MARTIN: Okay. And in this letter, it says, "As we look forward to the addition of a second shift to our processing plant in 1998, we believe that our contract payments will continue to provide our growers with a fair and profitable return on investment." Signed, Bud West, director of production, Kevin Crook, division manager, and Larry Ryals, breeder/hatchery manager.

Then it – on the next page it says, up at the top, "Hatching Egg Producer Contract," your Honor. And these were documents that induced us into making the investment. And – And, so, for that reason, you, Honor, we – we relied on these letters, and we made the commitment, we made the financial investment, to our detriment. And, so, for that reason, your Honor, according to the second of contracts, this is a contract. And – Thank you.

THE COURT: Ms. Martin, your argument's finished. So . . .

MS. MARTIN: Thank you, sir.

THE COURT: You may step down.

It should be recalled that the Martins did not exempt the cause of action against Sanderson Farms or any of its entities; only the trustee handled it. And [35] it is the order on the trustee's motion to compromise and settle with Sanderson Farms that is asked to be corrected.

The motion of Sanderson Farms, Inc., and Sanderson Farms, Inc., Production Division is granted and found to

be a valid correction of the record. We'll do the form of the order arising from this hearing.

Anything further from either side?

(No audible response.)

THE COURT: Okay. We stand adjourned on this matter.

MS. JACKS: Thank you, your Honor.

* * *

I, Court approved transcriber, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter.

/s/ Darla Messina
Signature of Approved Transcriber

7-13-07
Date

Darla Messina
Typed or Printed Name